

ORIGINAL

Case No. 12-0131

**SUPREME COURT
OF THE STATE OF OHIO**

**STATE OF OHIO *ex rel.*
KENT LANHAM,**

Relator,

v.

DANNY R. BUBP, Putative State Representative,

Respondent.

Original Action in Mandamus

VERIFIED COMPLAINT FOR WRIT OF MANDAMUS

**Curt C. Hartman (0064242)
The Law Firm of Curt C. Hartman
3749 Fox Point Court
Amelia, OH 45102
(513) 752-8800
*hartmanlawfirm@fuse.net***

Counsel for Relator

RECEIVED
JAN 24 2012
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
JAN 24 2012
CLERK OF COURT
SUPREME COURT OF OHIO

- b. records that document any request tendered by or on behalf of Mr. Bulp as to his authority or ability to simultaneously hold the public offices of state representative and a magistrate in a mayor's court;
- c. records that document any response to any request tendered by or on behalf of Mr. Bulp as to his authority or ability to simultaneously hold the public offices of state representative and a magistrate in a mayor's court;
- d. records upon which Mr. Bulp relies in order to establish his ability or authority to simultaneously hold the public offices of state representative and a magistrate in a mayor's court;

2. This Court possesses subject matter jurisdiction over this original action pursuant to Article IV, Section 2 of the Ohio Constitution.

3. Relator Kent Lanham is a taxpayer and resident of the State of Ohio, residing in Clermont County, Ohio, and within the 88th state house district.

4. Respondent Danny R. Bulp claims the right to and has been exercising the authority of the public office of state representative in the Ohio General Assembly, purporting to represent the 88th state house district which includes all or portions of Clermont, Brown and Adams Counties, notwithstanding the fact that, as developed below, Mr. Bulp has undertaken actions that, as a matter of law, operate as a forfeiture of the public office of state representative.

5. Nonetheless and as such, Mr. Bulp is still the "person responsible" for the public records at issue in this case, as well as the office of state representative he claims to hold being the "public office" whose records are at issue in this case. *See State ex rel. Glasgow v. Jones*, 119 Ohio St.3d 391, 394, 894 N.E.2d 686, 689, 2008-Ohio-4788 ¶15.

6. This case concerns a written public records request (the "Public Records Request Letter") tendered via hand delivery by undersigned counsel on behalf of the Relator to the offices of Mr. Bulp at the Vern Rife State Officer Tower on November 17, 2011.

7. A true and accurate copy of the Public Records Request Letter is attached hereto as Exhibit A.

***The Ohio Constitution Prohibits
Members of the General Assembly From Holding Another Public Office***

8. Article II, Section 4 of the Ohio Constitution provides, in part:

No member of the general assembly shall, during the term for which he was elected, unless during such term he resigns therefrom, hold any public office under the United States, or this state, or a political subdivision thereof; but this provision does not extend to officers of a political party, notaries public, or officers of the militia or of the United States armed forces.

9. In 1913, the Ohio Attorney General, in addressing the comparable predecessor provision of Article II, Section 4 of the Ohio Constitution expressly declared that “[t]he holding of any and all other offices renders one both ineligible to, as well as causing the forfeiture of their seat in the general assembly.” 1913 Ohio Att’y Gen’l Opin. No. 236.

10. Thus, when a member of the General Assembly serves in another public office, if he or she does not formally resign from the General Assembly, he or she has, at a minimum, implicitly resigned and forfeited his or her seat in the General Assembly, thus creating a vacancy as a matter of law.

11. In order to constitute a “public office” under Article II, Section 4 of the Ohio Constitution, the key consideration is whether the office or position at issue exercises powers part of the sovereign powers of government.

12. As explained by the Ohio Supreme Court in *State ex rel. Landis v. Board of Commissioners of Butler County*, 95 Ohio St. 157 (1917):

The usual criteria in determining whether a position is a public office are durability of tenure, oath, bond, emoluments, the independency of the functions exercised by the appointee, and the character of the duties imposed upon him. But it has been held by this court that while an oath, bond and compensation are usually elements in determining whether a position is a public office they are not

always necessary. . . . *The chief and most decisive characteristic of a public office is determined by the quality of the duties with which the appointee is invested, and by the fact that such duties are conferred upon the appointee by law.* If official duties are independent, political or governmental functions, then the position is a public office and not an employment.

. . . It is no longer an open question in this state that “to constitute a public office . . . it is essential that certain independent public duties, a part of the sovereignty of the state, should be appointed to it by law.”

In all of these cases it is manifest that the functional powers imposed must be those which constitute a part of the sovereignty of the state.

Id. at 159-60 (internal citations omitted and emphasis added); accord *Monarch Constr. Co. v. Ohio School Facilities Comm’n*, 118 Ohio Misc.2d 248, 269, 2002-Ohio-2955 ¶77 (“[a] ‘public officer,’ in contrast to a public employee, is invested by law with a portion of the sovereignty of the state and is authorized to exercise functions of an executive, legislative, or judicial character for the benefit of the public”).

***R.C. 101.26 Prohibits
Members of the General Assembly From Holding Another Public Office***

13. In addition to Article II, Section 4 of the Ohio Constitution, a statutory enactment also addresses a member of the General Assembly holding another public office.

14. Section 101.26 of the Ohio Revised Code provides, in pertinent part, that:

No member of either house of the general assembly, except in compliance with this section, shall knowingly do any of the following:

. . . .
(C) . . . accept any appointment, office, or employment from any executive or administrative branch or department of the state that provides other compensation than actual and necessary expenses. Any appointee, officer, or employee described in division . . . (C) of this section who accepts a certificate of election to either house immediately shall resign from the appointment, office, or employment, and, *if he fails or refuses to do so, his seat in the general assembly shall be deemed vacant.* Any member of the general assembly who accepts any appointment, office, or employment described in division . . . (C) of this section immediately shall resign from the general assembly, and, *if he fails or refuses to do so, his seat in the general assembly shall be deemed vacant.* This section does not apply to members of either house of the general assembly serving . . . [as] school teachers, employees of boards of education, notaries public, or officers of the militia.

15. In 1955, the Ohio Attorney General recognized that the concept of the “state”, as used R.C. § 101.26, was not limited to only the central agencies of the state government, but was intended to be given a broad application to mean “the whole governmental organization of the state, including the numerous local subdivisions therein.” 1955 Ohio Att’y Gen’l Opin. No. 6102 (“the acceptance by a member of the General Assembly of employment by a local school district as a school bus driver operates to vacate such individual’s legislative office as provided in Section 101.26, Revised Code”).

16. Additionally, the prohibition in R.C. § 101.26 extends to offices in municipalities. *See State ex rel. Ramey v. Davis*, 119 Ohio St. 596 (1929)(syllabus ¶1)(“[t]he sovereignty of the state in respect to its courts extends over all the state, including municipalities, whether governed by charter or general laws”).

17. Thus, pursuant to the express terms of R.C. § 101.26, if a member of the General Assembly should accept any appointment, office, or employment of a municipality (or continue to serve in such capacity), his or her seat in the General Assembly “shall be deemed vacant” and any further claim to serve in the General Assembly (including committee hearings, voting, *etc.*, as well as receiving the emoluments thereof) is the unlawful assumption and exercise of a public office and/or he or she has forfeited the public office of being a member of the General Assembly. *See* 1935 Ohio Att’y Gen’l Opin. No. 4366 (in construing both the constitutional and statutory prohibitions, declared that “while a member of the General Assembly may accept any of the employments you mention when the General Assembly is not in session, he must resign his seat in the General Assembly immediately or his seat will be considered vacant”).

***The Position of a Mayor's Court Magistrate Is a "Public Office"
As It Exercises a Sovereign Function of Government***

18. In Ohio, a mayor's court magistrate is generally empowered by statutory law to exercise jurisdiction over certain criminal cases, including violations of municipal ordinances and some criminal traffic cases, as well as parking violations. *See* R.C. § 1905.01.

19. In Ohio, a mayor's court magistrate is empowered by statutory law to "hear and determine prosecutions and criminal causes in the mayor's court that are within the jurisdiction of the mayor's court, as set forth in section 1905.01 of the Revised Code." R.C. § 1905.05.

20. In Ohio, a mayor's court magistrate is empowered by statutory law to "award and issue all writs and process that are necessary to enforce the administration of justice throughout the municipal corporation." R.C. § 1905.20.

21. Thus, in Ohio, a mayor's court magistrate has "the power to issue a warrant for the arrest of [a] defendant to compel his appearance at a stated time by reason of the mayor's statutory powers enumerated in R.C. 1905.20." *Village of Oakwood v. Wuliger*, 69 Ohio St.2d 453, 455, 432 N.E.2d 809, 811 (1982)

22. In Ohio, a mayor's court magistrate is empowered by statutory law to "punish contempts, compel the attendance of jurors and witnesses, and establish rules for the examination and trial of all cases brought before him, in the same manner as judges of county courts." R.C. § 1905.28.

23. The powers of a mayor's court magistrate, including those in the preceding paragraphs, are judicial powers. *See Village of Covington v. Lyle*, 69 Ohio St.2d 659, 662, 433 N.E.2d 597, 599 (1982)(discussing the "mayor's judicial decisions").

24. For "a person, by virtue of his election to the office of mayor . . . becomes a judicial officer. As such, he must decide litigated criminal questions according to law." *State ex rel.*

Brockman v. Proctor, 35 Ohio St.2d 79, 88, 298 N.E.2d 532, 538 (1973)(Corrigan, J., dissenting).

25. And “a mayor may appoint a mayor's court magistrate to handle mayor's court judicial matters.” *State v. Kimes*, 2003-Ohio-3752 ¶15.

26. Because “[t]he exercise of judicial powers is clearly a sovereign function of government,” 1992 Ohio Att'y Gen. Opin. No. 92-041 at 2-163 n.3, a person serving as a mayor's court magistrate is exercising a “public office” as used in Article II, Section 4 of the Ohio Constitution, as well as being subject to the requirements of Ohio Revised Code § 101.26.

27. In fact, the Ohio Attorney General previously concluded that the position of a mayor's court magistrate does, *inter alia*, exercise a sovereign function of government and, accordingly, “the position of mayor's court magistrate is a public office of the municipal corporation.” 1992 Ohio Att'y Gen'l Opin. No. 2-158; *see also* 1990 Ohio Att'y Gen'l Opin. No. 90-089 (the position of municipal court referee is a public office).

28. Thus, an individual may not, consistent with and pursuant to Article II, Section 4 of the Ohio Constitution and Ohio Revised Code § 101.26 simultaneously hold and exercise the public offices of a member of the general assembly and a mayor's court magistrate.

News Report Raises the Issue of Putative State Representative Bulp Simultaneously Holding the Public Offices of a Member of the General Assembly and a Mayor's Court Magistrate

29. In October 2009, a news report aired on a local television station in Cincinnati reporting that the chairmen of the Democrat Party in the three counties comprising the 88th state house district had filed complaints with then-Ohio Attorney General Richard Cordray and the local prosecuting attorneys concerning the fact that Mr. Bulp was simultaneously holding the public offices of state representative and mayor's court magistrate in direct contravention of Article II, Section 4 of the Ohio Constitution and R.C. § 101.26.

30. At the time of the news report, Mr. Bulp, in addition to holding the public office of state representative, was simultaneously holding and exercising the public office of mayor's court magistrate for the Village of Ripley, which is located in Brown County (within the 88th state house district).

31. According to the 2009 Financial Disclosure Statement that Mr. Bulp filed with the Joint Legislative Ethics Committee, Mr. Bulp, in addition to receiving compensation as a state representative, also received compensation from the Village of Ripley as a mayor's court magistrate during 2009.

32. According to the 2009 Financial Disclosure Statement that Mr. Bulp filed with the Joint Legislative Ethics Committee, Mr. Bulp, in addition to receiving compensation as a state representative, also received compensation from the Village of Winchester as a mayor's court magistrate during 2009.

33. The Village of Winchester is located within Adams County and, just like the Village of Ripley, is within the geographic boundary of the 88th state house district.

34. A true and accurate copy of the cover page and the page wherein Mr. Bulp acknowledged his service as mayor's court magistrates for the Village of Ripley and the Village of Winchester during 2009 is attached hereto as Exhibit B. These copies were obtained from the website of the Joint Legislative Ethics Committee (<http://www.jlec-olig.state.oh.us/>).

35. Notwithstanding the news report concerning Mr. Bulp simultaneously holding and exercising the power of two public offices (and, in fact, it appears that Mr. Bulp was actually simultaneously holding and exercising the power of three public offices), Mr. Bulp has continued to flaunt the restrictions within Article II, Section 4 of the Ohio Constitution and Ohio Revised Code § 101.26.

36. For according to the 2010 Financial Disclosure Statement that Mr. Bulp filed with the Joint Legislative Ethics Committee, Mr. Bulp, in addition to receiving compensation as a state representative, also received compensation from the Village of Ripley as a mayor's court magistrate during 2010.

37. And, similarly, according to the 2010 Financial Disclosure Statement that Mr. Bulp filed with the Joint Legislative Ethics Committee, Mr. Bulp, in addition to receiving compensation as a state representative, also received compensation from the Village of Winchester as a mayor's court magistrate during 2010.

38. A true and accurate copy of the cover page and the page wherein Mr. Bulp acknowledged his service as mayor's court magistrates for the Village of Ripley and the Village of Winchester during 2010 is attached hereto as Exhibit C. These copies were obtained from the website of the Joint Legislative Ethics Committee (<http://www.jlec-olig.state.oh.us/>).

39. And during the present general assembly, *i.e.*, the 129th General Assembly, Mr. Bulp has continued to simultaneously hold the public offices of state representative and mayor's court magistrate for the Village of Ripley.

40. During the present general assembly, Mr. Bulp assumed the public office of state representative for the 129th General Assembly on or about January 4, 2011.

41. Yet, after assuming the public office of state representative during the present general assembly, Mr. Bulp has continued to serve and exercise the public office of mayor's court magistrate for the Village of Ripley.

42. Attached hereto as Exhibit D are true and accurate copies of judgment entries dated January 10, 2011, and January 24, 2011, obtained via a public records request from the mayor's court of the Village of Ripley wherein Mr. Bulp, in his capacity as mayor's court magistrate,

found individuals guilty of criminal or traffic offenses and imposed upon those individuals the maximum fine allowed by law.

43. Based upon information and belief, Mr. Bulp continues to simultaneously hold and exercise the public offices of state representative and mayor's court magistrate.

Putative State Representative Bulp Has Claimed Receipt of an Opinion Authorizing Him To Simultaneously Hold Two Public Offices Notwithstanding the Provisions and Restrictions of the Ohio Constitution and State Law

44. In serving simultaneously as a state representative and a mayor's court magistrate for the Village of Ripley, Mr. Bulp has, as a matter of law, forfeited his public office of state representative, pursuant to Article II, Section 4 of the Ohio Constitution and Ohio Revised Code § 101.26.

45. Mr. Bulp is a usurper of the public office of state representative.

46. As part of the news report that aired in October 2009 concerning the fact that Mr. Bulp was simultaneously holding the public offices of state representative and mayor's court magistrate, the news reporter indicated that Mr. Bulp had asserted that he had obtained a written opinion from the Joint Legislative Ethics Committee or the Legislative Inspector General² declaring that he could simultaneously hold the public offices of state representative and mayor's court magistrate.

47. Additionally, as part of the news report, a letter or correspondence was shown on the video portion of the news report at the time the reporter indicated that Mr. Bulp claimed he had received the foregoing opinion, implying that Mr. Bulp had provided to the reporter and could produce pursuant to a public records request the opinion.

² The Legislative Inspector General is the executive director of the Joint Legislative Ethics Committee.

***Public Record Request:
Seeking Disclosure of Public Records From Bulp Indicating
That He Could Simultaneously Hold Two Public Offices Notwithstanding
the Provisions and Restrictions of the Ohio Constitution and State Law***

48. On November 17, 2011, undersigned counsel, on behalf of the Relator, hand delivered to the Office of State Representative Bulp in the Vern Rife State Office Tower a written public records request (the "Public Records Request Letter") which sought, generally speaking, records concerning or relating the authority of Mr. Bulp to simultaneously hold and exercise the public offices of state representative and mayor's court magistrate.

49. As noted above, a true and accurate copy of the Public Records Request Letter is attached hereto as Exhibit A.

50. As indicated on the Public Records Request Letter, receipt of the letter was signed for on behalf of Mr. Bulp by the Matthew Kalina who was serving as the receptionist for the members of the House of Representatives whose offices are located on the 13th floor of the Vern Rife State Office Tower.

51. The records sought pursuant to the Public Records Request Letter constitute "public records" as defined and used in R.C. § 149.43(A)(1) and no exception applies thereto.

52. Upon submission of the Public Records Request Letter, Mr. Bulp had a legal duty to provide all responsive public records in his possession, custody or control, including, without limitation, the written opinion that he claims he received from the Joint Legislative Ethics Committee or the Legislative Inspector General declaring that he could simultaneously hold and exercise the public offices of state representative and mayor's court magistrate notwithstanding the Article II, Section 4 of the Ohio Constitution or R.C. § 101.26.

***Response to Public Record Request:
Bubp Fails to Respond Affirmatively or Negatively to the Public Records Request Letter***

53. Mr. Bubp has failed to provide any public records in response to the Public Records Request Letter.

54. In fact, despite the fact that the Public Records Request Letter was in writing and delivered via hand delivery, Mr. Bubp has failed to respond affirmatively or negatively to the Letter. In other words, the Public Records Request Letter has been met with dead silence from Mr. Bubp.

55. Pursuant to the Public Records Act, Mr. Bubp has the legal duty to “make copies of the requested public record available at cost and within a reasonable period of time.” R.C. § 149.43(B)(1).

56. Yet, after over 2 months since the Public Records Request Letter was tendered, Mr. Bubp has failed to comply with his legal duty to make copies of the requested public record available at cost and within a reasonable period of time.

57. In that over 2 months have passed since the Public Records Request Letter was tendered via hand delivery, Mr. Bubp has effectively, and as a matter of law, denied the public records request of the Relator.

58. Pursuant to the Public Records Act, when a public office or person responsible for public records denies a public records request, the public office or person responsible has the legal duty to “provide the requester with an explanation, including legal authority, setting forth why the request was denied.” R.C. § 149.43(B)(3). And if “the initial request was provided in writing, the explanation also shall be provided to the requester in writing.” R.C. § 149.43(B)(3).

59. In denying the public records request of the Relator which was tendered in writing, Mr. Bubp has failed to comply with his legal duty to provide, in writing, an explanation with legal authority for the denial of the public records request.

***Issuance of a Writ of Mandamus, Together With
an Award of Statutory Damages, Attorney Fees and Costs Is Warranted***

60. Pursuant to the Public Records Act, a person allegedly aggrieved by the failure of a public office or the person responsible for public records to comply with an obligation under the Public Records Act is empowered and authorized to commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with their legal duties and obligations.

61. Relator has a clear legal right to the issuance of the writ of mandamus, as well as the other relief provided for by the Public Records Act.

62. Mr. Bubp is under a clear legal duty to perform provide all public records in his possession, custody or control that are responsive to the Public Records Request Letter.

63. And, pursuant to case law, Relator need not demonstrate or allege the lack of an adequate remedy at law in order to be entitled to the issuance of a writ of mandamus pursuant to the Public Records Act. *State ex rel. Findlay Pub. Co. v. Schroeder*, 76 Ohio St. 3d 580, 582 (1996); *Gaydosh v. Twinsburg*, 93 Ohio St.3d 576, 580, 757 N.E.2d 357 (2001).

64. Additionally, because the Public Records Request Letter was in writing and tendered via hand delivery, Relator is entitled to an award of statutory damages of \$100 per day, beginning with the day on which this mandamus action is filed, up to a maximum of \$1,000. R.C. § 149.43(C)(1).

65. Additionally, because Mr. Bubp failed to respond affirmatively or negatively to the Public Records Request Letter in over 2 months, Relator is entitled to an award of his attorney

fees, which, in this instance, are mandatory. R.C. § 149.43(C)(2)(b)(i); *see State ex rel. Doe v. Smith*, 123 Ohio St.3d 44, 49-50, 914 N.E.2d 159, 166-67, 2009-Ohio-4149 ¶¶30 & 31 (with respect to the Public Records Act, referencing “the two instances requiring attorney-fee awards” one of which being “when there is no timely response to a public-records request”).

**Public Interest/ Public Benefit:
Forcing a Recalcitrant Public Official To Comply With the Law**

66. Numerous public benefits exists which are sufficient to justify an award of attorney fees, if such an award in this case is still considered to be discretionary notwithstanding the failure of Mr. Bubp to respond affirmatively or negatively to the Public Records Request Letter for over 2 months.

67. A public benefit exists in ensuring that all public officials comply with the law and that one public official, because of his or her political position, cannot selectively chose whether they will respect the law.

68. A public benefit exists in “forcing a recalcitrant public official to comply with the unambiguous mandate of precedent” so such official “will make compliance with this precedent more likely in the future.” *State ex rel. Rasul-Bey v. Onunwor*, 94 Ohio St.3d 119, 122, 760 N.E.2d 421, 424 2002-Ohio-67.

**Public Interest/ Public Benefit:
Exposure of a Usurper of a Public Office**

69. The exposure of a usurper, even a putative usurper, of a public office is always in the public interest and provides a public benefit.

70. The exposure of the fact that a public official has taken actions which has the potential to result in the forfeiture of his or her public office is always in the public interest and provide a public benefit.

**Public Interest/ Public Benefit:
The Veracity of Bulp's Claim That He Had Received an Opinion
Allowing Him To Simultaneously Hold the Public Offices of
State Representative and Mayor's Court Magistrate**

71. As noted above, as part of the news report wherein the fact was first raised that Mr. Bulp was simultaneously holding the public offices of state representative and mayor's court magistrate, it was indicated that Mr. Bulp claimed he had received a written opinion from the Joint Legislative Ethics Committee or the Legislative Inspector General declaring that he could simultaneously hold the public offices of state representative and the mayor's court magistrate for the Village of Ripley.

72. However, the jurisdiction of the Joint Legislative Ethics Committee does not extend to definitively declaring whether members of the General Assembly are in compliance with the provisions and restrictions of Article II, Section 4 of the Ohio Constitution and Ohio Revised Code § 101.26.

73. In fact, in Advisory Opinions published by and on the website of the Joint Legislative Ethics Committee (<http://www.jlec-olig.state.oh.us/>), the Committee has repeatedly recognized and declared that, while it might advise members of the general assembly concerning Article II, Section 4 of the Ohio Constitution and Ohio Revised Code § 101.26, none of the opinions that it issues provides any immunity or safeguard to a member from forfeiting the office of state representative pursuant to said provisions.

74. For example, in JLEC Advisory Opinion # 97-005 (<http://www.jlecolig.state.oh.us/AdvisoryOpinions/A97-005.pdf>), the Joint Legislative Ethics Committee explicitly declared that "although the Committee has jurisdiction to answer [] questions[s] under Art.II, § 4, this opinion . . . provides no immunity with respect to matters arising under Art.II, § 4."

75. In JLEC Advisory Opinion # 97-005, the Joint Legislative Ethics Committee concluded that, while a member of the general assembly could be appointed to the Ohio Industrial Commission, if such member did not resign from the general assembly prior to being sworn in as a member of the Industrial Commission, then, pursuant to the self-executing aspect of Article II, Section 4 of the Ohio Constitution, the member would forfeit his membership in the General Assembly.

76. And as another example, in JLEC Advisory Opinion # 98-001 (<http://www.jlecolig.state.oh.us/AdvisoryOpinions/A98-001.pdf>), the Joint Legislative Ethics Committee explicitly declared that the Committee had previously declared that “it has no authority to provide immunity for violations of section 101.26 of the Revised Code.”

77. Thus, any claim that Mr. Bubp may have made that the Joint Legislative Ethics Committee or the Legislative Inspector General authorized and empowered him to simultaneously hold and exercise the two public offices of state representative and mayor’s court magistrate is highly suspect.

78. Accordingly, the release of all records which Mr. Bubp has received or upon which he relies for the authority to simultaneously hold and exercise the two public offices of state representative and mayor’s court magistrate will either support or repudiate the veracity of his claims such authority being granted to him by the Joint Legislative Ethics Committee or the Legislative Inspector General.

**Public Interest/ Public Benefit:
Bubp's Future Candidacy for Public Office**

79. In addition to the foregoing, reports in and about Brown County indicate that Mr. Bubp will be or is considering running for yet another public office in 2014, viz., a common pleas court judge in Brown County.

80. "The public has an unquestioned interest in the qualifications of potential applicants for positions of authority in public employment." *State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Ed.*, 97 Ohio St.3d 58, 2002-Ohio-5311 ¶53.

81. Furthermore, "[t]he requested records may be relevant to the electorate's consideration of Bubp's candidacy for public office." *State ex rel. Highlander v. Rudduck*, 103 Ohio St.3d 370, 2004-Ohio-4952 ¶22.

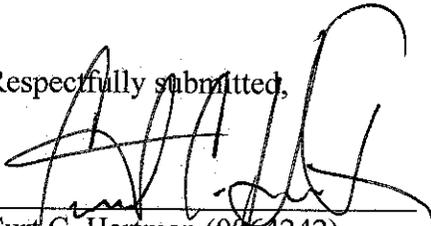
82. Furthermore, the public has an interest is determining and assessing whether Mr. Bubp, as a candidate for judicial office, respects and complies with the mandate of the law, including the Ohio Constitution.

83. Furthermore, the public has an interest is determining and assessing whether Mr. Bubp, as a candidate for judicial office, views the law applying equally to all such that he will truly "support the constitution of the United States and the constitution of this state" and will "administer justice without respect to persons," *see* R.C. § 3.23, or whether Mr. Bubp views the law as applying differently to different people depending upon their status or station in life.

WHEREFORE, Relator, on relation to and on behalf of the State of Ohio, hereby applies to this Court for the issuance of a peremptory writ of mandamus or, alternatively, an alternative writ of mandamus, compelling Mr. Bubp (i) to produce copies of those public records which have been withhold or not produced pursuant to the Public Records Request Letter; and (ii) to provide a written response to the Public Records Request Letter if the request is being further

denied (including legal authority for any such denial), together with an award of statutory damages, attorney fees and costs.

Respectfully submitted,



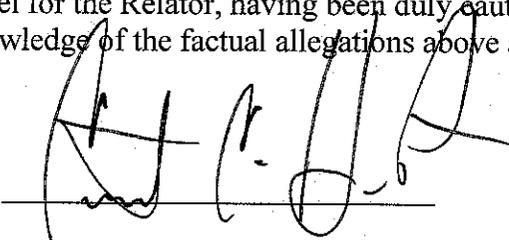
Curt C. Hartman (0064242)
The Law Firm of Curt C. Hartman
3749 Fox Point Court
Amelia, Ohio 45102
(513) 752-8800
hartmanlawfirm@fuse.net

Attorneys for Relator Kent Lanham

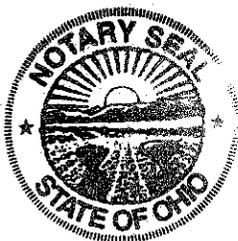
VERIFICATION

State of Ohio, County of Clermont) ss:

Comes now, Curt C. Hartman, counsel for the Relator, having been duly cautioned and sworn, and declares that he has personal knowledge of the factual allegations above and such allegations are true and accurate.



Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, on this the 23rd day of January 2012.



KIM A. CROWTHERS
Notary Public, State of Ohio
My Comm Expires March 31 2013

The Law Firm of Curt C. Hartman

3749 Fox Point Court
Amelia, OH 45102
(513) 752-2878
hartmanlawfirm@fuse.net

November 17, 2011

Via Hand Delivery

Danny R. Bulp
Representative, Ohio House of Representatives
77 S. High St, 13th Floor
Columbus, OH 43215-6111

Re: Public Records Request

Mr. Bulp:

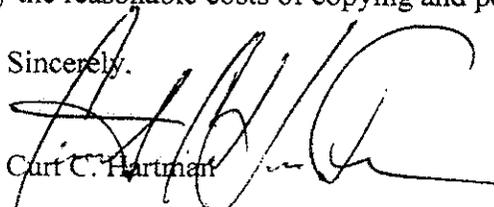
Pursuant to the Ohio Public Records Act and on behalf of a client, I request that you and your office provide copies of the following public records:

- all records that discuss or evaluate the authority or ability for you to simultaneously hold the public offices of state representative and magistrate in a mayor's court;
- all records documenting any request tendered by or on your behalf as to the authority or ability for you to simultaneously hold the public offices of state representative and magistrate in a mayor's court;
- all records documenting any response to any request tendered by or on your behalf as to the authority or ability for you to simultaneously hold the public office of state representative and magistrate in a mayor's court;
- all records upon which you rely to establish the ability or authority for you to simultaneously hold the public offices of state representative and magistrate in a mayor's court.

The foregoing requests include not only memoranda or letters, but also any electronic communications (such as e-mails).

Pursuant to the Public Records Act, I request that responsive records be produced in an electronic medium (specifically, a pdf-file) to the extent such records may reasonably be duplicated in such a medium. The records in electronic medium may be sent to me at the e-mail address in the header of this letter. If such records are not reasonably capable of being produced in such a medium, then I request to receive copies in paper format and am willing to pay the reasonable costs of copying and postage.

Sincerely,


Curt C. Hartman

Receipt confirmed: 

Date: 11/17/11

Matthew Kalina



JOINT LEGISLATIVE ETHICS COMMITTEE

Financial Disclosure Statement

2009

Please include complete addresses and telephone numbers for both your home and your employer.

PLEASE PRINT OR TYPE (Do not use pencil)

[X] House OR [] Senate

District # 88

1. NAME OF PERSON FILING STATEMENT

Bubp DANNY R.
LAST FIRST MIDDLE INITIAL

2. HOME ADDRESS

307 N. MARKET ST. West Union 45693
STREET CITY ZIP CODE

Adams
COUNTY

TELEPHONE NUMBER 937-544-9056

3. CURRENT EMPLOYER (Other than the General Assembly)

SELF EMPLOYED

307 N. MARKET ST. West Union Ohio 45693
STREET CITY STATE ZIP CODE

Adams
COUNTY

TELEPHONE NUMBER 937-544-2581

4. PLEASE CHECK THE APPROPRIATE BOX, AND FILL IN THE REQUESTED INFORMATION.

a. MEMBER OF THE GENERAL ASSEMBLY DURING 2009 OR 2010

[X] Elected OR [] Appointed to the General Assembly

If appointed, what was the date of your appointment: ___/___/___

If elected or appointed, what are (were) the dates of your most current term:

From: 1/1/09 to 12/31/10

2010 APR -6 AM 11:28
OFFICE OF LEGISLATIVE INSP. GENERAL

b. NON INCUMBENT CANDIDATES FOR THE GENERAL ASSEMBLY DURING 2010

[] Date of first election (primary, special, or general) in which your candidacy is to be voted upon: ___/___/___

c. EMPLOYEES OF THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY

[] Designated by Employing Agency as a required filer Date of employment: ___/___/___

d. VOLUNTARY FILERS

[] Name of Agency of Voluntary Filer: _____

PLAINTIFF'S EXHIBIT B

1. INCOME

Complete EITHER Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2010 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2009: You are required to list EVERY source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION 8. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, unless those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

EXAMPLE:

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
State of Ohio	Senator/Representative	E
Smith and Jones Law Firm	Lawyer	C
Friendly National Bank	Interest on Savings Account	A
Christopher Columbus - Legislative Agent	Boat Insurance Policy	\$143.00
123 Main Street	Rental Income	B

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT LAW OFFICE OF DANNY R. BUBP	LEGAL - LAWYER	F
B. STATE OF OHIO	STATE REP.	E
C. VILLAGE OF RIPLEY, OHIO	MAGISTRATE	C
D. VILLAGE OF WINCHESTER, OHIO	MAGISTRATE	B
E. HUNTINGTON NATIONAL BANK	INTEREST	B
F. MERCHANTS NATIONAL BANK	INTEREST	B
G. FIFTH THIRD BANK	INTEREST	B
H. FIRST STATE BANK & BANCORP	INTEREST & DIVIDENDS	B
I. HILLIARD LYONS	DIVIDENDS	B
J. WELLS FARGO - FIRST CLEARING LLC	INTEREST & DIVIDENDS	B
K. IRS	3 INTEREST	B

See Attachment F

JOINT LEGISLATIVE ETHICS COMMITTEE

2010 Financial Disclosure Statement

To be filed in 2011

Please include complete addresses and telephone numbers for both your home and your employer.

PLEASE PRINT OR TYPE (Do not use pencil)

[X] House OR [] Senate

District # 88

1. NAME OF PERSON FILING STATEMENT

Bubp LAST DANNY FIRST R. MIDDLE INITIAL

2. HOME ADDRESS 307 N. MARKET ST. West Union 45693 STREET CITY ZIP CODE

Adams COUNTY TELEPHONE NUMBER 937-544-2581

3. CURRENT EMPLOYER (Other than the General Assembly) SELF EMPLOYED

307 N. MARKET ST. West Union Ohio 45693 STREET CITY STATE ZIP CODE

Adams COUNTY TELEPHONE NUMBER 937-544-2581

4. PLEASE CHECK THE APPROPRIATE BOX, AND FILL IN THE REQUESTED INFORMATION.

a. MEMBER OF THE GENERAL ASSEMBLY DURING 2010 OR 2011

[X] Elected OR [] Appointed to the General Assembly

If appointed to the 128th or 129th General Assembly, provide the date of your appointment: ___/___/___

Date of current or most recent term: From: 1/1/11 To: 12/31/12

b. EMPLOYEES OF THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY

[] Designated by Employing Agency as a required filer Date of employment: ___/___/___

c. VOLUNTARY FILERS

[] Name of Agency of Voluntary Filer: _____

2011 APR 15 PM 2: OFFICE OF LEGISLATIVE INSP. GENERAL



1. INCOME

Complete EITHER Section A or Section B, whichever is the appropriate section.

A. IF YOU ARE A MEMBER OF THE GENERAL ASSEMBLY IN 2011 OR WERE A MEMBER OF THE GENERAL ASSEMBLY IN 2010: You are required to list **EVERY** source of income and must identify the amount of each source of income received in accordance with the following ranges using the appropriate letter: A. \$0 - \$999; B. \$1,000 - \$9,999; C. \$10,000 - \$24,999; D. \$25,000 - \$49,999; E. \$50,000 - \$99,999; F. \$100,000 or more. Also, list each source of income received by any other person for your use or benefit. "Income" includes gross income for federal tax purposes and interest and dividends on all governmental securities. You are not required to list the sources of income of your spouse, unless the income was received specifically for your use or benefit. MILEAGE REIMBURSEMENT IS REPORTED IN "SECTION 8. TRAVEL". DO NOT INCLUDE MILEAGE REIMBURSEMENT IN "SECTION 1. INCOME".

You are not required to list the individual items of income from your business or profession, only the name of any business, governmental agency, or employer from which you received income EXCEPT (1) you must list the source and dollar amount of income received, or shared with a partner in your business or profession, that is attributable to services or goods provided to a client or customer who is a "legislative agent" AND/OR (2) you must list the source and dollar amount of income received from a person or entity that is doing or seeking to do business with the General Assembly. Attorneys, physicians, and psychologists should list each practice separately but need not disclose the names of their clients or patients, **unless** those clients or patients are legislative agents. If the client or patient is a legislative agent, you must disclose each client or patient, unless excepted under Revised Code 102.02(A)(2)(c).

For each source of income listed, briefly describe the services for which the income was received.

EXAMPLE:

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
State of Ohio	Senator/Representative	E
Smith and Jones Law Firm	Lawyer	C
Friendly National Bank	Interest on Savings Account	A
Christopher Columbus - Legislative Agent	Boat Insurance Policy	\$143.00
123 Main Street	Rental Income	B

IF NONE, CHECK HERE

SOURCE OF INCOME	SERVICE PERFORMED	AMOUNT (A, B, C, D, E, OR F)
A. SELF EMPLOYMENT LAW OFFICE OF DANNY R. BUBB	Legal Services	F
B. STATE OF OHIO	Representative	E
C. VILLAGE OF RIPLEY	Magistrate	C
D. VILLAGE OF WINCHESTER	Magistrate	C
E. HILLIARD LYONS	DIVIDENDS	B
F. MERCHANTS NATIONAL BANK	INTEREST	B
G. HUNTINGTON NATIONAL BANK	INTEREST	B
H. FIRST STATE BANK	DIVIDENDS	B
I. FIFTH THIRD BANK	INTEREST	B

See Attachment Pg 3 (A)

IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

CASE NO. 11C RB 00001

Eric McIntosh

2 Buckner St

150 111 Ky

DEFENDANT

1-39-2-3128 - Carolyn Bartley

JUDGEMENT ENTRY

his 10th day of January, ~~2010~~ ²⁰¹¹; the Defendant appearing in open court represented by Counsel 1 without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of No Contest and was found Guilty to the stated offense of: _____ and the following charges(s) are dismissed _____

Theft in violation of Village Ordinance 131.08, a misdemeanor of the 1st degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED:

E
\$ 1000.00 plus court costs of \$ 85.00 to be paid by 50.00 per week.
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____.
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____.

CARCERATION: 90 days in the Brown County Jail with 90 days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: all jail suspended on condition that fines are paid as ordered - Pay 50.00 per week beginning 1/17/11
2011 of all payments are paid as ordered
2010 total of 750.00 suspended

ORDERED this 10th day of January, 2011.

Eric McIntosh
DEFENDANT

Danny R. Bubb
MAGISTRATE DANNY R. BUBB



IN THE MAYOR'S COURT OF RIPLEY, OHIO

VILLAGE OF RIPLEY

PLAINTIFF

-VS-

Jarren McDaniel

DEFENDANT

*
*
*
*
*
*
*

CASE NO. 10 TR000266

JUDGEMENT ENTRY

his 24th day of January, ~~2010~~ ²⁰¹¹, the Defendant appearing in open court represented by Counsel 1 without Counsel, having duly waived his/her rights to Counsel in writing pursuant of C.R. 44.

Defendant entered a plea of NO Contest and was found GUILTY to the stated offense of: _____ and the following charges(s) are dismissed _____

DUS in violation of Village Ordinance 71.31, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.
_____ in violation of Village Ordinance _____, a misdemeanor of the _____ degree.

THE FOLLOWING SENTENCE IS IMPOSED: 50.00 today (1/24/11) by 4:30pm

E
\$ 1000.00 plus court costs of \$ 85.00 to be paid by _____
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____
\$ _____ .00 plus court costs of \$ _____ .00 to be paid by _____

IMPRISONMENT: 90 days in the Brown County Jail with 90 days suspended.

Defendant's privileges to operate a motor vehicle are suspended for a period of _____ days.

Defendant is placed on probation for _____ year(s) with the following conditions:

Defendant is not to violate any laws.

Defendant is to pay restitution to _____ in the amount of \$ _____.

Defendant is to complete _____ hours of community service.

Defendant must abide by all additional orders or instructions of the Court.

Other: all jail suspended on condition that fines are pd as ordered - to pay 50.00

ORDERED this 24th day of January, ~~2010~~ ²⁰¹¹

Rev ween beginning 1/28/11

Jarren McDaniel
DEFENDANT

Danny R. Bubb
MAGISTRATE DANNY R. BUBB